

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
HUNTINGTON DIVISION**

Jonathan R., minor by Next	)	
Friend Sarah DIXON, <i>et al.</i> ,	)	
	)	
<i>Plaintiffs,</i>	)	
v.	)	Case No. 3:19-cv-00710
	)	
Jim JUSTICE, in his official capacity as	)	
the Governor of West Virginia, <i>et al.</i> ,	)	
	)	
<i>Defendants.</i>	)	

**DECLARATION OF MARCIA ROBINSON LOWRY**

I, Marcia Robinson Lowry, declare:

1. I am counsel for Plaintiffs in the above-captioned action and submit this Declaration in support of Plaintiffs' Memorandum in Opposition to Defendants' Motion for Summary Judgment.

2. The production of document discovery continues even though written and deposition discovery, which closed on July 5, 2024. For example, Defendants produced 2024 caseload data on July 19, 2024, after the close of written and deposition discovery. They also produced documents pertaining to inappropriate placements on July 29, 2024. Defendants will not finish producing documents responsive to Plaintiffs' Requests for Production until August 20, 2024. ECF Nos. 505, 538.

3. Defendants produced the spreadsheet Bates numbered D003105334 on June 24, 2024, eleven days before the end of discovery.

4. Exhibit 150 consists of two excerpts of an excel spreadsheet, Bates numbered D003113562. Excerpt 1 has been filtered by the column labeled "Service Description" so as to

isolate all children in emergency shelters. Excerpt 2 has been filtered by the column labeled “Caregiver Name” so as to isolate all children in the following facilities: Habilitation Center LLC dba Millcreek of Arkansas; Highland Hospital; George Junior Republic; ResCare of WV. Given the volume of additional information in the spreadsheet, data showing children in other placements have been removed. Additionally, the following columns have been removed for legibility and to preserve the confidentiality of children’s information: Worker County; Worker Name; Family County; Client ID; Client Name; Date of Birth; Age.

5. Defendants offered Jeffrey Pack, Commissioner of the Bureau of Social Services, as a witness in response to a notice of deposition for a Rule 30(b)(6) witness to discuss any actions Defendants have taken or plan to take to improve caseloads, hiring, and retention. At his deposition on June 28, 2024, Mr. Pack relied on document Bates numbered D003113230, and read portions of the document into the record. At the deposition, Plaintiffs’ counsel requested that Defendants produce the document, which Defendants later produced.

6. Attached to this declaration are true and correct copies of the documents listed in the table below.

Exhibit	Description
<b>Discovery Responses</b>	
1.	Plaintiffs’ Tenth Request for Production of Documents to Defendants (August 17, 2023)
2.	Defendants’ Amended Response to Plaintiffs’ First Interrogatories (December 28, 2023).
3.	Defendants’ Responses and Objections to Plaintiffs’ Second Interrogatories (January 29, 2024).
<b>Expert Reports and Deposition Transcripts</b>	
4.	Deposition Transcript of Jeremiah Samples (April 18, 2024)

<b>Exhibit</b>	<b>Description</b>
5.	Declaration and Expert Report of Samuel Hickman (May 15, 2024)
6.	Declaration and Expert Report of Susan Ault (May 17, 2024)
7.	Deposition Transcript of Cynthia Persily (June 12, 2024)
8.	Deposition Transcript of Heidi Arthur (June 14, 2024)
9.	Deposition Transcript of Cammie Chapman (June 25, 2024)
10.	Deposition Transcript of Laurea Ellis (June 26, 2024)
11.	Deposition Transcript of Cynthia Parsons (June 27, 2024).
12.	Deposition Transcript of Melanie Urquhart (June 27, 2024)
13.	Deposition Transcript of Jeffrey Pack (June 28, 2024)
14.	Deposition Transcript of Uma Ahluwalia (July 5, 2024)
15.	Deposition Transcript of Bill Crouch (July 12, 2024)
16.	Deposition Transcript of James Dimas (July 22, 2024)
<b>Reports</b>	
17.	US DHHS, Final Report: West Virginia Child and Family Services Review (October 2002), D003152.
18.	Statewide Assessment Instrument: DHHR (2008), D003566.
19.	US DHHS, Final Report: West Virginia Child and Family Services Review (May 2009), D003428.
20.	DHHR, Initial Design and Implementation Report 2nd Quarter (May 2015), D058224
21.	DHHR, Initial Design and Implementation Report 3rd Quarter (August 2015), D006753
22.	US DHHS, West Virginia Final Report (2017), D003776.
23.	DHHR, Fourth Annual Progress Report (2018), D004703

<b>Exhibit</b>	<b>Description</b>
24.	DHHR, West Virginia 2019 Child and Family Services Plan (2019), D003816.
25.	DHHR, WV Child and Family Services Review Program Improvement Plan (2019), D003097564
26.	Foster Care Placements Report (July 2020), D285200.
27.	DHHR, Foster Care Policy (August 2020), D002851677.
28.	DHHR, WV Foster Care Ombudsman Program: The First Year in Review (March 25, 2021), D001178752.
29.	BSS DPQI, Marshall/Wetzel/Tyler District Child and Families Services Review (CFSR) Exit Report (January 20, 2022), D001139110
30.	BSS DPQI, Wayne District Child and Families Services Review (CFSR) Exit Report (January 24, 2022), D002212181
31.	BSS DPQI, Harrison District Child and Families Services Review (CFSR) Exit Report (February 7, 2022), D001138660
32.	BSS DPQI, McDowell District Child and Families Services Review (CFSR) Exit Report (April 5, 2022), D001140508
33.	BSS DPQI, Kanawha District Child and Families Services Review (CFSR) Exit Report (June 2, 2022), D002212033
34.	BSS DPQI, Randolph/Tucker District Child and Families Services Review (CFSR) Exit Report (July 1, 2022), D002212061
35.	DHHR, Worker Workload Monthly History Sorted by Region (August 3, 2022), D219816
36.	BSS DPQI, Mingo District Child and Families Services Review (CFSR) Exit Report (August 4, 2022), D001443162
37.	West Virginia University, Workload Study Report (August 19, 2022), D001618651
38.	BSS DPQI, Monongalia/Marion District Child and Families Services Review (CFSR) Exit Report (September 23, 2022), D002211858
39.	BSS DPQI, Calhoun, Gilmer, Wirt District Child and Families Services Review (CFSR) Exit Report (January 4, 2023), D002212088
40.	BSS DPQI, Lewis/Upshur/Braxton District Child and Families Services Review (CFSR) Exit Report (February 3, 2023), D001051220
41.	BSS DPQI, Berkeley/Jefferson/Morgan District Child and Families Services Review (CFSR) Exit Report (February 17, 2023), D001054949
42.	BSS DPQI, Fayette District Child and Families Services Review (CFSR) Exit Report (March 6, 2023), D002212458

Exhibit	Description
43.	BSS DPQI, Greenbrier/Monroe/Pocahontas/Summers Child and Families Services Review (CFSR) Exit Report (June 2, 2023), D001048754
44.	BSS DPQI, Boone, Lincoln, and Putnam District Child and Families Services Review (CFSR) Exit Report (August 2, 2023), D002212776
45.	BSS DPQI, Mason/Jackson/Roane/Calhoun District Child and Families Services Review (CFSR) Exit Report (August 14, 2023), D001773616
46.	BSS DPQI, Barbour/Preston/ Taylor District Child and Families Services Review (CFSR) Exit Report (September 21, 2023), D002212691
47.	BSS DPQI, Child and Families Services Review (CFSR) Wood/Wirt Exit Report (December 7, 2023), D002212505
48.	BSS, West Virginia 2024 Annual Progress and Services Review (2024), D002229660
49.	BSS, Foster Care Policy (January 2024), D002230540
50.	Agreement Between the State of West Virginia and the United States Department of Justice, Report by Subject Matter Expert (March 2024), D003097184
51.	DHHR, Children in Hotels and Hospitals Judicial District Summary Monthly Report for March 1 – March 31, 2024 (April 5, 2024), D003113469.
52.	BSS, Bureau for Social Services Recruitment Efforts and Updates (April 19, 2024), D003096794
53.	DoHS, Children’s Mental Health and Behavioral Health Services Quality and Outcomes Report - Addendum (April 30, 2024), D003113835, available at <a href="https://kidsthive.wv.gov/DOJ/Documents/Addendum%20to%20January%202024%20Quality%20and%20Outcomes%20Report%204%2030%202024.pdf">https://kidsthive.wv.gov/DOJ/Documents/Addendum%20to%20January%202024%20Quality%20and%20Outcomes%20Report%204%2030%202024.pdf</a>
54.	BSS, Foster Care Policy (May 2024), D003107870-D003108117
55.	DHHR, Children in Hotels and Hospitals Judicial District Summary Monthly Report for April 1 – April 30, 2024 (May 7, 2024), D003113479
56.	BSS, Child Protective Services Policy (June 2024), D003107531
57.	DHHR, Children in Hotels and Hospitals Judicial District Summary Monthly Report for May 1 – May 31, 2024 (June 7, 2024), D003113494.
58.	DoHS, Children’s Mental Health and Behavioral Health Services Quality and Outcomes Report (July 16, 2024), D003113569
59.	DHHR, Worker Workload Monthly History – Summary (July 16, 2024), D003113462
60.	DHHR, Children in Hotels and Hospitals Judicial District Summary Monthly Report for June 1 – June 30, 2024 (July 9, 2024), D003113487
<b>Emails</b>	

Exhibit	Description
61.	Email from Jessica Holstein to Kent Nowviskie, Janie Cole, and Linda Watts copying others (January 29, 2019), D068521
62.	Email from Tammy Pearson to Linda Watts copying others (March 26, 2019), D001825922
63.	Email from Linda Watts to Tanny O'Connell and Tina Mitchell (July 26, 2019), D001846443
64.	Email from Terri Walker to Heather Grogg and Tanny O'Connell (August 11, 2020), D886191
65.	Email from Child Welfare Information Getaway Library to Amy Booth (December 17, 2020), D001415882
66.	Email from Linda Watts to Tanny O'Connell, Tina Mitchell, and Terri Miller copying others (December 17, 2020), D848506
67.	Email from Linda Watts to Terri Miller (May 14, 2021), D814024
68.	Email from Jeremiah Samples to Bill Crouch copying others (May 21, 2021), D001073022
69.	Email from Jeremiah Samples to Jeffrey Pack (August 12, 2021), D003039665
70.	Email from Jeremiah Samples to Jeffrey Pack, Cammie Chapman, and others (August 26, 2021), D001076396
71.	Email from Beverly Heldreth to others (August 31, 2021), D003018201
72.	Email and attachment from Lorie Bragg to William Belcher (September 30, 2021), D590189; D590190
73.	Email from Brittany Harris to Amanda Spencer, copying others (November 9, 2021), D352523
74.	Email from Bill Crouch to Christina Mullins and Jeffrey Pack (December 2, 2021), D001167535
75.	Email from Amy Hymes to Laurea Ellis, Jeffrey Pack, Melanie Urquhart, and others (May 22, 2022), D546066
76.	Email from Michelle Dean to Jeffrey Pack (October 13, 2022), D400235
77.	Email from Allison Adler to Kendra Boley-Rogers copying Cammie Chapman, Jeffrey Pack, Michelle Dean and others (November 14, 2022), D001065329
78.	Email from Jeffrey Pack to Cammie Chapman (November 22, 2022), D001064924
79.	Email from Lorie Bragg to Jeffrey Pack (December 15, 2022), D001064993

<b>Exhibit</b>	<b>Description</b>
80.	Email from Susan Richards to Rhonda Larew (January 25, 2023), D001139234
81.	Email from Toni Rozanski to Cammie Chapman (February 7, 2023), D001067119
82.	Email from Melanie Urquhart to Lorie Bragg, copying Jeffrey Pack, Michelle Dean, and Terri Miller (February 10, 2023), D396776
83.	Email from Marilyn Pearce to Cammie Chapman, copying Jeffrey Pack and Rebecah Carson (February 13, 2023), D001959343.
84.	Email from Marilyn Pearce to Michelle Dean, copying Cammie Chapman, Jeffrey Pack, and others (March 22, 2023), D001957797
85.	Email from Laurea Ellis to Cammie Chapman, and Jeffrey Pack (April 5, 2023), D001434002
86.	Email from Jondrea Nicholson to Jeffrey Pack, copying Laurea Ellis (April 7, 2023), D384744
87.	Email from Cammie Chapman to Jeffrey Pack and others (June 12, 2023), D001059218.
88.	Email from Beverly Heldreth to Travis McReynolds, copying others (June 27, 2023), D659731
89.	Email from Jeffrey Pack to Laurea Ellis and Amanda Queen (July 5, 2023), D388075
90.	Email from Kandy Pudsell to Rick Parks, copying Laurea Ellis and others (July 13, 2023), D535701
91.	Email from Roann Bosley to Jeffrey Pack and Laurea Ellis (July 24, 2023), D391067
92.	Email from Michelle Dean to Jeffrey Pack (August 7, 2023), D383845
93.	Email from Jeffrey Pack to Melanie Urquhart, copying Amanda Queen (August 21, 2023), D383297
94.	Email from Michelle Dean to Lorie Bragg, copying Laurea Ellis and Jeffrey Pack (August 25, 2023), D382959
95.	Email from Lorie Bragg to Laurea Ellis, copying Michelle Dean and Jeffrey Pack (August 28, 2023), D382942
96.	Email from Paula Ullom to Michelle Vaughan, copying Melanie Urquhart, Laurea Ellis, and others (August 28, 2023), D001046078
97.	Email from Meaghan Goffreda to Michelle Dean, copying Jeffrey Pack and Melanie Urquhart (August 29, 2023), D001045723
98.	Email from Cammie Chapman to Dawn Frohna (September 8, 2023), D001784407

Exhibit	Description
99.	Email and attachment from Eileen Gardner to others (September 11, 2023), D001253689; D001253709
100.	Email from Jessica Embrey to Jeffrey Pack, copying Laurea Ellis (September 12, 2023), D001266583
101.	Email from Michelle Dean to Jeffrey Pack, copying Lorie Bragg and Laurea Ellis (October 12, 2023), D001807088
102.	Email from Jeffrey Pack to Jessica Holstein, copying Cammie Chapman (October 13, 2023), D001797384
103.	Email from Cynthia Persily to Jeremiah Samples (October 16, 2023), D001809687
104.	Email from Jeffrey Pack to Jessica Holstein, copying Cammie Chapman (October 16, 2023), D001797352
105.	Email from Susan Richards to Paul Butler (October 17, 2023), D001783107
106.	Email from Melanie Urquhart to Jeffrey Pack, Michelle Dean, Laurea Ellis, and others (October 23, 2023), D001808874
107.	Email from Laurea Ellis to Jeffrey Pack (November 3, 2023), D001803593
108.	Email from Lorie Bragg to Jeffrey Pack and Laurea Ellis (November 8, 2023), D002004934
109.	Email from Lorie Bragg to Jeffrey Pack, copying others (November 9, 2023), D001807490
110.	Email and attachment from Laurel Steedman to Cammie Chapman (November 13, 2023), D001764473; D001764476
111.	Email from John Lopez to Cynthia Persily, copying others (November 15, 2023), D002919471
112.	Email from Amanda Gifford to Melanie Urquhart, copying Lorie Bragg and others (November 16, 2023), D001809899
113.	Emails between Jeffrey Pack and Laurea Ellis (November 16, 2023) D001808695
114.	Email from Michelle Dean to Melanie Urquhart, copying Jeffrey Pack (November 16, 2023), D001264761
115.	Email from Jessica Holstein to Cynthia Persily, copying Cammie Chapman, Jeffrey Pack, and others (November 17, 2023), D001809093
116.	Email from Melanie Urquhart to Cynthia Persily, copying Jeffrey Pack and others (November 17, 2023), D001770438
117.	Email from Melanie Urquhart to Teresa Berg, copying others (November 28, 2023), D001265465



Exhibit	Description
118.	Email from Teresa Berg to Melanie Urquhart (November 28, 2023), D001265463
<b>Other Documents</b>	
119.	Summary of Responses to Plaintiffs' Deposition Topics re DoHS Actions to Improve Child Welfare System (n.d.), D003113230
120.	Department of Justice Letter to Office of the Governor, State of West Virginia (June 1, 2015), D002927278
121.	Totals for Youth in Offices or Hotels Per Month (January 2019), D239629
122.	Totals for Youth in Offices or Hotels Per Month (January 2020), D001551897
123.	DHHR Office of Inspector General, DHHS Administrative Order/Admissions Ban to ResCare WV (July 13, 2020), D001157387
124.	Facilities Youth were in on 11-30-2020 (December 18, 2020), D001020457
125.	Children's Bureau, Child Welfare Outcomes Report Data (2021), D003113126
126.	Facilities Youth were in on 12-31-2020 (January 25, 2021), D001032448
127.	Facilities Youth were in on 05-31-2021 (June 17, 2021), D001974868
128.	<i>Victor v. West Virginia Department of Health and Human Resources</i> January 6 Hearing Transcript (January 6, 2022), ECF 318-3
129.	Facilities Youth were in on 8/31/2022 (September 21, 2022), D001142405
130.	Terra Alta Children's Home Recertification, Life Safety Code Survey (January 23, 2023), available at <a href="https://ohflac.wvdhhr.org/Apps/Lookup/FacilityDetails/28516">https://ohflac.wvdhhr.org/Apps/Lookup/FacilityDetails/28516</a>
131.	DHHR, DHHR Unveils Major New Initiative to Strengthen Protective Services (January 24, 2023), available at <a href="https://dhhr.wv.gov/News/2023/Pages/DHHR-Unveils-Major-New-Initiative-to-Strengthen-Protective-Services.aspx#:~:text=As%20of%20December%2031%2C%202022,need%20of%20these%20critical%20services.%E2%80%9D">https://dhhr.wv.gov/News/2023/Pages/DHHR-Unveils-Major-New-Initiative-to-Strengthen-Protective-Services.aspx#:~:text=As%20of%20December%2031%2C%202022,need%20of%20these%20critical%20services.%E2%80%9D</a>
132.	Terra Alta Children's Home Recertification Survey (January 26, 2023), available at <a href="https://ohflac.wvdhhr.org/Apps/Lookup/FacilityDetails/28516">https://ohflac.wvdhhr.org/Apps/Lookup/FacilityDetails/28516</a>
133.	Terra Alta Children's Complaint Survey (March 29, 2023), available at <a href="https://ohflac.wvdhhr.org/Apps/Lookup/FacilityDetails/28516">https://ohflac.wvdhhr.org/Apps/Lookup/FacilityDetails/28516</a>

Exhibit	Description
134.	Letter from the West Virginia Child Care Association of Child Care Providers to Jeffrey Pack, Cammie Chapman, and other individuals at DoHS (April 17, 2023), D001049702
135.	Affidavit of Commissioner Jeffrey Pack, <i>Victor v. West Virginia Department of Health and Human Resources</i> (May 16, 2023). ECF 318-4.
136.	Letter from Melanie Urquhart to Judge Joanna Tabit Re: Rule to Show Cause (June 8, 2023), D001437529
137.	BSS, Child Protective Services Workforce Allocations Calendar Year 2023 (July 1, 2023), D002141008
138.	Reducing the Reliance on Residential (R3) Stakeholders Meeting (July 20, 2023), P010437-P010445
139.	Highland Hospital Complaint Survey (September 13, 2023), available at <a href="https://ohflac.wvdhhr.org/Apps/Lookup/FacilityDetails/149045">https://ohflac.wvdhhr.org/Apps/Lookup/FacilityDetails/149045</a>
140.	Terra Alta Children's Home Recertification, Life Safety Code Survey (December 12, 2023), available at <a href="https://ohflac.wvdhhr.org/Apps/Lookup/FacilityDetails/28516">https://ohflac.wvdhhr.org/Apps/Lookup/FacilityDetails/28516</a>
141.	Terra Alta Children's Home Recertification Survey (December 14, 2023), available at <a href="https://ohflac.wvdhhr.org/Apps/Lookup/FacilityDetails/28516">https://ohflac.wvdhhr.org/Apps/Lookup/FacilityDetails/28516</a>
142.	BSS, BSS ChildStat Summary of Data from Phase 1, August 2023-January 2024 (January 2024), D002846010
143.	BSS, Bureau for Social Services Recruitment Efforts and Updates (January 9, 2024), D002779838
144.	WV DHHR, Licensure Summary of Findings of Non-Compliance and Plan of Correction (January 11, 2024), D003114113
145.	BSS, Bureau for Social Services Recruitment Efforts and Updates (February 13, 2024), D002779854
146.	BSS, Bureau for Social Services Recruitment Efforts and Updates (March 20, 2024), D002779844
147.	Children's Bureau, CFSR Round 4 Statewide Indicators Workbook (April 2024), D003112201
148.	West Virginia Child Welfare Dashboard (July 2024), <a href="https://dhhr.wv.gov/Pages/childwelfaredatadashboard.aspx">https://dhhr.wv.gov/Pages/childwelfaredatadashboard.aspx</a>
149.	BSS, Child Protective Services Workforce Allocations Calendar Year 2024 (July 1, 2024), available at <a href="http://www.wvlegislature.gov/legisdocs/reports/agency/H16_CY_2024_26394.pdf">http://www.wvlegislature.gov/legisdocs/reports/agency/H16_CY_2024_26394.pdf</a>
150.	DHHR, "Children in Placement by Service Description" (July 17, 2024), D003113562

Exhibit	Description
<b>News Articles</b>	
151.	Agnel Phillip, Eli Hager, & Suzy Khimm, The ‘death’ penalty of child welfare: In 6 months, some parents lose their children forever (December 20, 2022), P05598
152.	Rolly Hoyt, Some kids have faced violence in Arkansas psychiatric facilities (January 9, 2023), <a href="https://www.thv11.com/article/news/health/violence-arkansas-psychiatric-facilities/91-082c9941-3132-476e-8aca-c5a2734c04b8">https://www.thv11.com/article/news/health/violence-arkansas-psychiatric-facilities/91-082c9941-3132-476e-8aca-c5a2734c04b8</a>
153.	Amelia Ferrell Knisely, State’s plan for reducing foster kids in group homes met with pushback (April 5, 2024), available at <a href="https://www.timeswv.com/news/west_virginia/state-s-plan-for-reducing-foster-kids-in-group-homes-met-with-pushback/article_9c2feade-f2c3-11ee-9ffd-4795e36c7fe2.html">https://www.timeswv.com/news/west_virginia/state-s-plan-for-reducing-foster-kids-in-group-homes-met-with-pushback/article_9c2feade-f2c3-11ee-9ffd-4795e36c7fe2.html</a>
154.	Jacob Geanous, Lawsuits allege widespread sex abuse at juvenile detention centers in Western Pa (July 23, 2024), <a href="https://www.post-gazette.com/news/crime-courts/2024/07/23/sex-abuse-abraxis-george-junior-republic-summit-academy/stories/202407230064">https://www.post-gazette.com/news/crime-courts/2024/07/23/sex-abuse-abraxis-george-junior-republic-summit-academy/stories/202407230064</a>

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on July 29, 2024



Marcia Robinson Lowry